

MINUTES OF THE MEETING
OF THE
BOARD OF VETERINARY MEDICINE AND SURGERY

April 27, 2010

ROLL CALL

The meeting of the Board of Veterinary Medicine and Surgery was called to order at 8:34 am by Chair David Ylander, DVM, in the Cornhusker State Industries Conference Room, 800 Pioneers Boulevard, Lincoln, Nebraska. Board members present and answering roll call were:

David Ylander, DVM, Chairperson
Nanci Kyhn, LVT, Vice-Chairperson
Gail Miller, MA, Secretary
James Unwin, DVM

A quorum being present, the meeting convened. Present to participate in the meeting were Julie Agena, Assistant Attorney General; Michael Grutsch, Program Manager, Investigations Unit; and Larry Wiehn, Investigator. Present from the Office of Medical and Specialized Health, Licensure Unit: Becky Wisell, Administrator; and Vicki Bumgarner, Health Licensing Coordinator.

ADOPTION OF AGENDA

Kyhn moved, seconded by Miller, to adopt the agenda with changes in the order of items to accommodate those in attendance, as necessary. Voting aye: Ylander, Kyhn, Miller, Unwin. Voting nay: none. Motion carried.

INVESTIGATIONAL REPORTS

Unwin moved, seconded by Kyhn, to go into closed session for the purpose of hearing the investigational reports and other closed session items as identified on the agenda. Voting aye: Ylander, Kyhn, Miller, Unwin. Voting nay: none. Motion carried and the meeting went into closed session at 8:35 am.

Kyhn recused herself from the meeting at 9:55 am.

Kyhn returned to the meeting at 10:20 am.

APPLICATION REVIEW and CRITERIA FOR BOARD REVIEW

Discussion continued in closed session.

The meeting returned to open session at 11:45 am.

Roger Brink, Department Legal Counsel and Joyce Davidson, Department Regulations Analyst entered the meeting at 11:45 am.

APPLICATIONS FOR LICENSURE

Kenneth Johnson, DVM – application for a license to practice as a veterinarian. Unwin moved, seconded by Kyhn, to approve issuance of a license. Voting aye: Ylander, Kyhn, Miller, Unwin. Voting nay: none. Motion carried.

Board of Veterinary Medicine & Surgery
Minutes of the Meeting April 27, 2010
Page 2

Dawn Thompson - application for a license to practice as a veterinary technician. Unwin moved, seconded by Miller, to recommend issuance of a license on probation for a period of two years with the conditions that she complete the Nebraska Veterinary Medicine Jurisprudence Examination within six months, complete an ethics course of at least four hours duration, and complete an anesthesia review course to cover induction, administration and monitoring of at least six hours duration. The ethics course and anesthesia course are to be completed prior to the next license renewal date and can be counted toward the continuing education requirement. The basis for this recommendation is that Thompson practiced without a license, performed substandard practice in anesthesia while not licensed, and misrepresented material facts on her application related to practice without a license. Voting aye: Ylander, Kyhn, Miller, Unwin. Voting nay: none. Motion carried.

Renee Baumann - application for a license to practice as a veterinary technician. Miller moved, seconded by Kyhn, to approve issuance of a license on probation for a period of five years with the conditions of random body fluid screens, completion of the Nebraska Veterinary Jurisprudence Examination within three months, quarterly employer reports, attend at least one support group meeting each week, that she follow all treatment recommendation of alcohol/drug abuse providers and all other standard conditions for abuse/dependency issues. The basis for the recommendation is Bauman's failure to mandatorily report convictions, her dependency diagnosis and her convictions. Voting aye: Ylander, Kyhn, Miller, Unwin. Voting nay: none. Motion carried.

Summary of Mail Ballots

Marsha Einemann - application for a license to practice as a veterinary technician. The Board had approved issuance of this application unanimously by mail ballot.

APPROVAL OF MINUTES OF THE MEETING

Unwin moved, seconded by Kyhn, to approve the minutes of the January 29, 2010 meeting. Voting aye: Ylander, Kyhn, Miller, Unwin. Voting nay: none. Motion carried.

PROCEDURES FOR ANIMAL EUTHANASIA AT ANIMAL WELFARE ORGANIZATIONS

Recently, the DEA had informed at least one Nebraska animal welfare organization that animal euthanasia could not be performed if the veterinarian who is the registrant for the controlled substances was not on the premises. This had not been the directive from DEA previously. Since it was important that Department staff understand the federal guidelines regarding this matter, Brink and Wisell contacted the DEA to discuss this matter. After discussion that the decision was based on 21 US Code 802(2), Wisell further communicated with the representative at the DEA to inform her about Neb. Rev. Stat. 54-2501 through 2506, the Nebraska Controlled Substances Animal Welfare Act. This statute allows animal welfare organizations to enter into a collaborating veterinarian agreement with a veterinarian in order for the animal welfare organization to possess euthanizing drugs and administer those euthanizing drugs to animals. The collaborating veterinarian is required to maintain a separate registration under Neb. Rev. Stat. 38-4908 at the principal place of business of the animal welfare organization. The collaborating agreement is between a veterinarian and an animal welfare organization and must include specific components as set out in the statute. Upon review of this statute, the representative of the DEA stated that since Nebraska has this law and specific protocols for the administration of euthanasia drugs at animal welfare organizations, the DEA will register the practitioner at the animal welfare organization and the designated individuals may possess and administer controlled substances obtained pursuant to that registration.

Board of Veterinary Medicine & Surgery
Minutes of the Meeting April 27, 2010
Page 3

IMPLEMENTATION OF 463 & LICENSED ANIMAL THERAPISTS 172 NAC 182 REGULATIONS DEVELOPMENT

Standards for Additional Training - Reports From Committees

Chiropractic

Unwin reported that the Licensed Animal Therapist Chiropractic Committee voted 3 -1 to follow the guidelines for education as specified in the Colorado and Minnesota statutes regarding animal chiropractic and that the program must consist of at least 210 hours of education.

Programs and accreditation associations reviewed by the Committee were the American Veterinary Chiropractic Association, International Veterinary Chiropractic Association and Veterinary Orthopedic Manipulation. The Board will review the curriculum requirements of these three programs or accrediting associations to determine if their requirements or programs consist of at least 210 hours of education.

The LAT Chiropractic Committee had wondered if there was a need to define chiropractic for animals in the regulations. Brink said that is not necessary because the statute authorizing licensure of animal therapists states that the therapist can perform animal therapies that are consistent with the training that the individual was required to have in order to obtain the license for the human therapy.

Physical Therapy

The Licensed Animal Therapist Physical Therapy Committee recommended that training which is recognized by established programs, such as the AVMA or Surgical Academy, be accepted, and that these programs must have a certification program. They recommend 120 hours of education, of which at least 40 are clinical hours. They also recommend that some type of competency assessment be included as part of the program.

Massage Therapy

Wisell had received a letter from Gerald Ruppert, DVM, a member of the Licensed Animal Therapy Massage Therapy Committee, expressing a concern that he states was not addressed at the April 5th meeting of the Committee. He states that he feels the Board should consider requiring that Licensed Animal Therapists could only perform therapy at a veterinary facility under the direct supervision of a veterinarian. Board members agreed that the statute will not allow the Board to set regulatory requirements for supervision of the licensed animal therapist, or that it must be performed at a veterinary clinic. Ylander pointed out that such requirements would instead be consistent with the statutory exemption from needing a license which allows for collaborative practice with a veterinarian (Neb. Rev. Stat. 38-3321(13)).

The Massage Therapy Committee recommended that training be completed by a Board-approved animal massage program which must include 100 contact hours and 50 clinical hours. Additionally, there should be some type of competency assessment as part of the training.

Members of the Board of Massage Therapy present at the meeting offered to submit additional information on organizations that accredit animal massage therapy schools for review by the Board at the next meeting.

Acupuncture

Board of Veterinary Medicine & Surgery
Minutes of the Meeting April 27, 2010
Page 4

Ylander reported that a questionnaire was sent to members of the Licensed Animal Therapist Acupuncture Committee and he is waiting for feedback.

Advertising/Representation

Board members decided that the license documents will need to list which therapy the licensed animal therapist is trained to perform. Listing which species the licensed animal therapist has trained to work might be too specific.

Board members decided to require that advertising by the licensed animal therapist include the species in which the licensed animal therapist has trained and also that the licensed animal therapist can perform therapy only upon the referral of a licensed veterinarian.

The issue of facility sanitation was discussed, and Wisell said she would confer with Kris Chiles, Administrator, Office of Mental Health and Consumer Services, about this issue for salons, massage therapy facilities, etc.

Scope of Practice

The scope of practice for the licensed animal therapist was discussed previously in this meeting. It was emphasized that the licensed animal therapist is not allowed to diagnose disease or ailments of the animal.

The question was made if licensed animal therapists in chiropractic could take x-rays of the animal. It was agreed that this would not be acceptable. If x-rays were appropriate, the referring veterinarian would forward copies of such to the licensed animal therapist, along with the animal's medical history.

It was agreed that chemical restraint could not be administered by the licensed animal therapist.

Standards for Referral

Board members discussed the concern that the referral from the veterinarian would become "open-ended" allowing the licensed animal therapist to perform therapy on the animal for medical conditions different than the condition outlined in the original referral given by the veterinarian. It was decided that the 30-day reports which the therapist is required to provide to the referring veterinarian would provide adequate feed-back to the veterinarian to determine if the therapy being provided was for the condition included in the referral.

Correspondence from Board of Massage Therapy

The Board had received correspondence from the Board of Massage Therapy dated November 3, 2009, which was not received in time for the Board of Veterinary Medicine and Surgery to review at their November 4 meeting. The letter addressed the issue of relaxation massage for animals with the concern that this type of massage should not be regulated in the same manner as therapeutic massage. Additionally, the letter admitted that the statutes are written in such a way that relaxation massage cannot be separated from therapeutic massage. Keli Hupka, member of the Board of Massage Therapy, was present and stated that at this point in time the concern related in the letter is no longer current.

CORRESPONDENCE REGARDING BASIC ANIMAL RESCUE TRAINING (BART)

Board of Veterinary Medicine & Surgery
Minutes of the Meeting April 27, 2010
Page 5

The Board had received correspondence from the Basic Animal Rescue Training (BART) non-profit corporation, which provides training to firefighters and emergency personnel to deal with animals in emergency situations. The letter questioned if the Board felt that veterinarians or veterinary technicians needed to be instrumental in this training.

Wisell questioned if such personnel providing emergency rescue services to animals needed to be licensed as animal therapists. Ylander stated that such emergency personnel would not need to be licensed by the Board, as they would fall under the exemption to needing a license as found in Neb. Rev. Stat. 38-3321(1), which states that the Veterinary Practice Act shall not be construed to prohibit an employee of the federal, state, or local government from performing his or her official duties. The Board did not feel that veterinarians or veterinary technicians would need to be involved in giving this training.

The Board stated that they approve of the concept that veterinarians and veterinary technicians be involved in BART training for firefighters and emergency personnel.

Wisell summarized the discussion at this meeting regarding regulations development for licensed animal therapists. It was decided that more information would be obtained and submitted to the Board regarding the training required for the licensed animal therapists in massage therapy and chiropractic. This information will be discussed at the next meeting. The physical therapy training requirements as discussed at this meeting can be drafted into regulations. Acupuncture therapy will be reviewed at the next meeting. A draft of regulations will be presented to the Board at the next meeting for initial review and discussion.

VETERINARY TECHNICIAN SCOPE OF PRACTICE QUESTION REGARDING MASSAGE THERAPY

The Board stated that both licensed veterinary technicians and unlicensed veterinary assistants can perform massage therapy under the indirect supervision of a veterinarian. This is outlined in the currently effective regulations which state that both the licensed veterinary technician and unlicensed veterinary assistants can perform administration and application of treatment... under the indirect supervision of a veterinarian (172 NAC 180-004.01C Item 4 and 180-004.02C item 7).

REVIEW OF DUTIES AND RESPONSIBILITIES FOR BOARD OF VETERINARY MEDICINE AND DEPARTMENT

The Board reviewed the list of Duties & Responsibilities for the Board of Veterinary Medicine and Surgery and the Department. Wisell and Board Members pointed out some updating changes that will be made. Miller moved, seconded by Unwin, to approve the list of Duties and Responsibilities for the Board of Veterinary Medicine and Department as revised. Voting aye: Ylander, Kyhn, Miller, Unwin. Voting nay: none. Motion carried.

FUTURE LEGISLATIVE CONCEPTS

Exemptions to the Practice of Veterinary Medicine and Surgery - Definitions of Livestock, Domestic Animal, Pets, Etc.

Duane Gangwish, with the Nebraska Cattlemen, discussed LB 865 which passed and was signed into law in the 2010 legislative session. This was a bill which grouped all statutes relating to animals into one section of statute and changed all references to animals to the term "livestock" throughout.

Board of Veterinary Medicine & Surgery
Minutes of the Meeting April 27, 2010
Page 6

The Board discussed that ownership of companion animals is not spelled out clearly as an exemption to needing a license in the Veterinary Medicine and Surgery Practice Act (Neb. Rev. Stat. 38-3321(7)) and that this needs to be cleaned up with legislation.

Gangwish said that the Nebraska Cattlemen would be interested in assisting with this legislation and could be a strong support.

Board members discussed that the statute needs to be revised because of issues with ownership of animals and the practice of veterinary medicine by breeders, animal shelters, and other possible situations.

Ylander wondered why poultry is exempted from the Practice Act.

Miller moved, seconded by Kyhn, to request that the Department sponsor legislation for the 2011 session to clarify the owner exemption to the practice of veterinary medicine in the Veterinary Medicine and Surgery Practice Act. Voting aye: Ylander, Kyhn, Miller, Unwin. Voting nay: none. Motion carried.

Staff will gather information for the next meeting regarding timeframes for when the animal shelter owns the animal for Nebraska and other states.

The Board will plan to work on definitions of livestock, domestic animal, pet, etc, at the next meeting.

FINANCIAL REPORT

The Board reviewed the financial report as of March 31, 2010.

AAVSB ISSUES

Kyhn moved, seconded by Miller, to recommend that the Department approve the travel for all the Board members to attend the AAVSB Annual Meeting September 16-18, 2010. Voting aye: Ylander, Kyhn, Miller, Unwin. Voting nay: none. Motion carried.

There were no nominations from the Board for open positions with the AAVSB Board or committees.

FUTURE LEGISLATIVE CONCEPTS (Continued)

Temporary Licensure

Board members discussed the need for a temporary license to allow an out of state veterinarian or veterinary technician a speedier process to be licensed in order to cover for a person suffering from an illness or in the case of a disaster.

Brink mentioned that statutes currently allow the Governor to waive any law in case of an emergency. Board members still thought having a temporary license available would be very beneficial as a way to keep track of professionals in an emergency.

Miller moved, seconded by Kyhn, to request that the Department sponsor legislation for 2011 that would provide for temporary licensure for veterinarians and veterinary technicians. Voting aye: Ylander, Kyhn, Miller, Unwin. Voting nay: none. Motion carried.

Board of Veterinary Medicine & Surgery
Minutes of the Meeting April 27, 2010
Page 7

SET DATE OF NEXT MEETING

The Board set the date for the next meeting for June 29 at 8:30 am.

Ylander recognized Weldon S. Sleight, PhD, Dean Nebraska College of Technical Agriculture (NCTA), who was in attendance at the meeting. Sleight invited all the Board members to the college to visit, particularly to view the new addition being built which will be a huge veterinary hospital, including classrooms and labs. The expected completion date is next fall.

Sleight said this new facility would be available for in-service training. He also offered to bring in-service training courses to other locations as necessary. Board members asked if there is an ethics course at the college, and Sleight indicated that at the present time they have not been able to include this in their curriculum. He stated the college could tailor a specific in-service class for this purpose if requested by the Board.

ELECTION OF OFFICERS

Miller moved, seconded by Unwin, to retain the current slate of officers for this year. Voting aye: Ylander, Kyhn, Miller, Unwin. Voting nay: none. Motion carried. Ylander - Chair, Kyhn - Vice-Chair and Miller - Secretary were re-elected as officers for this year.

ADJOURNMENT

There being no further business, the meeting adjourned at 4:37 pm.

Respectfully submitted,

Gail Miller, MA, Secretary
Board of Veterinary Medicine and Surgery